

Eleventh Circuit Won't Rehear Title VII Sexual Orientation Case; LGBT Advocacy Group Will Appeal to United States Supreme Court

July 11, 2017 | Blog | By **Donald C. Davis**

VIEWPOINT TOPICS

- Employment, Labor & Benefits

RELATED PRACTICES

RELATED INDUSTRIES

After the Eleventh Circuit denied a petition for rehearing *en banc* last week in [Evans v. Georgia Regional Hospital](#), LGBT advocacy group Lambda Legal **announced** that it will appeal the dismissal of its client's complaint to the United States Supreme Court. Evans will petition the Court to hear the case and to hold that Title VII's prohibition against sex discrimination includes a prohibition against sexual orientation discrimination. The Seventh Circuit created a circuit split on this issue in April when a majority of its judges decided that sexual orientation discrimination is *per se* sex discrimination; we wrote about that decision [here](#).

The Eleventh Circuit is the only circuit so far to decline the opportunity to revisit its precedent on this issue. After agreeing last year to reconsider its precedent, the Seventh Circuit issued a landmark opinion in April of this year reversing its long-held precedent that LGBT status discrimination is not covered by Title VII. The Second Circuit followed the Seventh Circuit by agreeing in May of this year to reconsider its precedent, which we discussed [here](#).

As we have **predicted**, this issue is not likely to be resolved nationally unless and until the United States Supreme Court steps in, which now appears more likely with this latest development.

Authors



Donald C. Davis, Practice Group Associate

Donald C. Davis counsels Mintz clients on employment matters, including employment contracts, wage and hour disputes, employment discrimination, disability accommodations, retaliation, wrongful discharge claims, family and medical leave, defamation, and whistleblower rights.